IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

CHAND RATAN VS L.RS OF LATE SHRI DWARKADASS

S.B.CIVIL MISC APPEAL NO.954/2004
UNDER ORDER 43 RULE 1 READ WITH
SECTION 104 C.P.C.

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DATE OF JUDGMENT :- DECEMBER 04,2006

PRESENT
HON'BLE MR.JUSTICE PRAKASH TATIA

Mr.M.S.Purohit, counsel for the appellant.
Mr.H.S.Shrimali, counsel for the respondents.

BY THE COURT :-

Heard learned counsel for the parties.

The appellant has challenged the order dated 9th July 2003 by which injunction application was dismissed by the trial Court. According to the appellant, appellant is in possession of the suit property and electricity and water connections are in the name of appellant. The appellant relies upon the

will dated 7th April 1999.

The trial Court dismissed the injunction application after observing that as per the defendants stand will dated 7th April 1999 was cancelled and second will dated 22th November 2001. The trial Court observed that applicant appellant failed to produce material evidence to prove his possession and cause of action as per plaintiff accrued on 18th May 2002 after the death of his mother on 7th May 2002. In this circumstance court held that the plaintiff failed to prove his possession.

The injunction order was refused by the trial Court as back as on 9th July 2003. In appeal, notices were issued on 6th July 2004 and thereafter an application was filed under order 24 rule 4 CPC and now after more than 3 years from the date of impugned order,appellant is seeking injunction.

In the circumstances, it would be appropriate without commenting on merit of the case, to direct the trial Court to decide the suit expeditiously and I do not find any reason to interfere in the impugned order when the injunction was refused by the trial Court three years ago.

In view of above, appeal of the appellant is dismissed with the direction to the trial Court to decide the suit expeditiously.

(PRAKASH TATIA)J.

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